

## **Notice issued to State of Punjab,CBI etc. on an PIL filed by LFHRI seeking CBI inquiry into killing.**

The Punjab and Haryana High Court issued notice to Punjab Govt., CBI, SSP Gurdaspur and others on a public Interest Litigation filed by Lawyers For Human Rights International (LFHRI) seeking CBI inquiry into incident of police firing at Gurdaspur in which a youth Jaspal Singh was killed and another youth Ranjit Singh was seriously injured.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.\_\_\_\_\_/2012

(Public Interest Litigation)

Lawyers for Human Rights International (Regd.)

Office at Kothi No.516, Sector 11-B, Chandigarh

through Tejinder Singh Sudan Advocate, President Chandigarh Unit.

. . . Petitioner

Versus

1. State of Punjab through Home Secretary,

Civil Secretariat, Chandigarh.

2. Senior Superintendent of Police, Gurdaspur.

3. S.H.O. Police Station City Gurdaspur.

4. Commissioner, Jalandhar Division, Jalandhar.

5. Central Bureau of Investigation,

Sector-30, Chandigarh.

. . . Respondents

Civil Writ Petition under Articles 226/227 of the Constitution of India for issuance of a writ of Mandamus or any other writ order or direction for handing over investigation to the C.B.I. of case FIR No. 63 dated 29.3.2012, registered under Section 302/120-B IPC at Police Station City Gurdaspur, regarding killing of Jaspal Singh aged 19 years in police firing in Gurdaspur on 29.3.2012.

ii) With further prayer for directing registration of a separate FIR in relation to the attempt to murder of Ranjit Singh son of Jaswant Singh, who was also hit by a bullet of the Punjab police, which entered through his back and exited through his stomach, regarding which no offence has been as yet been registered by the police.

iii) With the further prayer that his Hon'ble Court may direct the respondent No.4, who is holding enquiry into the matter to submit his report into the matter of indiscriminate and unprovoked police firing upon demonstrators who were peacefully sitting on the road and doing Simran to this Hon'ble Court.

iv) With the further prayer for laying down guidelines to ensure that such incidents do not take place in future and the civil administration and police administration act in accordance with the law.

v) With the further prayer that the police officials who are booked for the crime be ensured to be tried by the criminal court in a time bound manner, so that the witnesses are not threatened and won over.

vi) With the further prayer this Hon'ble Court may grant compensation to the family of deceased Jaspal Singh for loss of life and to Ranjit Singh, who suffered life threatening injuries due to police firing.

...

Respectfully showeth:-

1). That the petitioner organization is comprised of Lawyers who are practicing in this Hon'ble Court as well as the Districts Courts of Punjab, Haryana and Chandigarh. Though the organization has membership throughout the world, however the units of Punjab, Haryana and Chandigarh are actively involved in upholding of Human Rights and rule of law through Public Interest Litigations and by providing free legal aid to the persons who are unable to afford litigation. The organization also trains and disseminates Human Rights knowledge through seminars and workshops. The organization does not accept any grants nationally or inter-nationally and the members of the organization make expenditure from their own earnings. The petitioner organization is also part of the International Campaign against Death Penalty and ratification of the treaty for formation of

International Criminal Court at Hague. So the petitioner No.1 organization is competent to invoke the extra ordinary jurisdiction of this Hon'ble Court by way of the Public Interest Litigation under Articles 226/227 of Constitution of India in the present matter of public importance.

2). That on the event of fixing of date for execution of death sentence for 31.3.2012 of Balwant Singh Rajoana, who is one of the accused in late S.Beant Singh Chief Minister of Punjab assassination case, the people of Punjab as a mark of resentment to the hanging of Balwant Singh Rajoana, decided to hold a peaceful march in the State of Punjab on 28.3.2012. Throughout Punjab people came out in the streets and in a very peaceful manner demonstrated against the evils of the death penalty and hurriedness being shown by the authorities to hang Balwant Singh Rajoana, inspite of the matter being pending in the Hon'ble Supreme Court of India. Except for the towns of Patiala and Gurdaspur where the activists of Shiv Sena are very vocal, the population by large participated peacefully in the demonstration and there was no untoward incident in whole of Punjab.

3). That in the city of Gurdaspur certain miscreants belonging to Shiv Sena gave beatings to some of the agitating Sikh youth and took off their turbans and showed disrespect to the same. The police registered FIR No. 62 dated 28.3.2012 under Section 341/323/427/295A/ 148/149 IPC at Police Station City Gurdaspur against the Shiv Sena activists who are named in the FIR, a copy of which is being appended herewith as Annexure P-1.

4). That due to registration of this FIR the Shiv Sena activists gave a call for Gurdaspur Band on 29.3.2012, as they wanted to show solidarity towards their leaders who were booked in the crime by the police.

5). That on 29.3.2012 outside Gurudwara Ramgaria, Tibri Road Gurdaspur around 20/30 young sikh boys collected and sat down on the road and started doing Simran (saying prayers) while on the other side Shiv Sena activists who were in large numbers tried to impose the bandh in the City of Gurdaspur. While these sikh youths were sitting on the road, without blocking the traffic, as is very much apparent from the video clippings available with the petitioner/organization and is also available in the internet and they demanded that the Shiv Sena activists should be arrested in the case registered against them i.e. FIR No. 62 dated 28.3.2012.

6). That as will be very much clear from the CD the police force which was being headed by the Naib Tehsildar, DSP and Inspector and below ranks which were almost 100 in number they all started initially firing in the air, at which those young boys who were sitting in the road started running helter and skelter and thereafter the police started firing directly towards those sikh youths and resultingly one sikh youth namely Jaspal Singh died on the spot being hit by a bullet of AK .47 which entered his body from back side and another clean shaven sikh boy who was not even part of the young boys agitating and who was leaving after closing of the shop where he was working also suffered a bullet injury, as the bullet entered from his back and exited from the front. Jaspal Singh the sikh youth died in the incident and Ranjit Singh was seriously injured due to police firing.

7). That the police registered an FIR on the basis of the statement of one Amarbir Singh son of Roor Singh who is also related to the deceased and he was being accompanied by Inderjit Singh son of Baljinder Singh. The FIR No.63 which was registered under Section 302 on 29.3.2012 at Police Station City Gurdaspur, was later on added with the offences of Section 120-B IPC on 30.3.2012 and copy of the said FIR is being appended herewith as Annexure P-2. It is pertinent to mention that no FIR has been registered regarding the attempt to murder of Ranjit Singh. That father of Jaspal Singh namely Gurcharanjit Singh also gave his statement which has been registered vide DDR No. 14 dated 30.3.2012 in which he has named ASI Ajwinder Singh to be the accused who fired upon his son. The said DDR is being appended herewith as Annexure P-3.

8.) That the petitioner organization was contacted by the victim families and the activists of the organisation visited Gurdaspur on 21.4.2012 and on meeting Ranjit Singh, it has come to the knowledge of the petitioner organization that Ranjit Singh has made a statement to the police of his being fired upon by the police, though he does not recognize the police official, but the police officials has not registered any separate criminal case regarding the same, however his statement is being appended herewith as Annexure P-4 which has been recorded by the police and a copy was also handed over to him.

9). That the petitioner organisation has also interviewed the eyewitnesses like Inderjit Singh son of Baljinder Singh who was accompanying the complainant who witnessed the accused ASI firing upon deceased Jaspal Singh, a copy of the affidavit dated 21.4.2012 which has been duly notarized is being appended herewith as Annexure P-5. Which is further supported by another witness namely Satnam Singh son of Inder Singh who also eye witnessed ASI Ajwinder Singh firing from the assault rifle. Affidavit dated 21.4.2012 is appended herewith as Annexure P-6 and two other witnesses namely Gurmit Singh son of Tarlok Singh and Inderpal Singh son of Jagpal Singh to the effect that the police started firing at the unarmed peaceful agitators without any provocation and indiscriminately, their affidavits dated 21.4.2012 are being appended herewith as Annexure P-7 and P-8.

10). That the CD which is being appended with the present public interest litigation as Annexure P-9 would show that the police without resorting to lathi charge or other means and without giving any warning to those sikh youths to disperse and to maintain law and order started an indiscriminate and unprovoked firing from their assault rifles, pistols, revolvers and other officials weapons. Such action of the police party which was being headed by the DSP and Naib Tehsildar and participated by Inspector, Sub Inspector, ASIs and several subordinate police officials who even went to the extent to entering into the houses of the locality and bet up the people and broke the doors of the people's houses, is an action which cannot be justified under any law of the land.

11). That the police force of Punjab has gained notoriety of making blatant abuse of human rights and violations of fundamental rights of the citizens which are well protected under the Constitution of India.

12). That in the present case the agitators were sitting peacefully on the side of the road and not even creating the hindrance on the double road in front of the Gurudwara and were reciting prayers and action of the police without resorting to any warning or lathi charge and straight way firing initially in the air and then directly towards the running away agitators definitely requires a thorough and a deep probe, under the supervision of this Hon'ble Court. The probe being conducted by the Commissioner, Jalandhar Division, Jalandhar is under way and it would be essential to treat this case as a test case and to draw guidelines as to how the police has to behave in such situations and strictest possible action needs to be taken against the erring civil and police officials, due to the criminal action of who one young boy aged 19 years, who was the only son of his parents lost his life and another young boy of a similar age received a gunshot injury and is alive only due to his good luck.

13.) That how the civil administration and the police authorities have to act in such a situation has been described in Chapter 10 of Code of Criminal Procedure 1973 under the heading "maintenance of public order and tranquility" and Sections 129,130,131 deal with the situation as to how the authorities have to act; 129) Dispersal of assembly by use of civil force, 130)Use of armed forces to disperse assembly, 131) Power of certain armed forces to disperse assembly. The civil and police authorities totally acted in contravention of the law mandated for such a situation.

14). That since the accused are the Punjab police officials and Executive Magistrate/Naib Tehsildar are directly responsible for the loss of life and attempt to murder of another, in the interest of justice would be only met in case the investigation of murder and attempt to murder of Jaspal Singh and Ranjit Singh respectively are investigated by an independent and unbiased investigative agency which can be no other than the C.B.I.

15). That since the action of the Punjab police has resulted into death and life threatening grievous hurt to another and effective guidelines to be need laid down on the one side and the guilty persons needs to be punished at the earliest, so the present Public Interest Litigation.

16). That the main law points are involved in this writ petition are as under:-

i) As to whether the action of the Executive Magistrate as well as the police officials can be termed as legal and appropriate in the given circumstances.

ii) As to whether the civil administration and police administration acted in consonance with Sections 129,130,131 of Criminal Procedure Code.

iii) As to whether the circumstances warrant the handing over the investigation of killing of Jaspal Singh murder assault to Ranjit Singh to CBI, as senior Punjab police officials are directly involved in the crime.

iv) As to whether the family of Jaspal Singh and Ranjit Singh to be suitably compensated for the

losses suffered by them and infringement of their fundamental rights.

17). That there is no other remedy either by appeal or revision is available with the petitioner except to approach this Hon'ble Court by way of filing the present writ petition.

18). That no such or similar petition has earlier been filed by the petitioner in this Hon'ble Court or in the Hon'ble Supreme Court of India.

19.) That the documents attached with the writ petition are true copies of the originals as required under Rule 22 of the Writ Jurisdiction Rules.

In the light of the above given circumstances of the case, it is, therefore, respectfully prayed that this Hon'ble Court may be pleased to issue a writ of Mandamus or any other writ order or directions:-

i) for handing over investigation to the C.B.I. of case FIR No. 63 dated 29.3.2012, registered under Section 302/120-B IPC at Police Station City Gurdaspur, regarding killing of Jaspal Singh aged 19 years in police firing in Gurdaspur on 29.3.2012.

ii) With further prayer for directing registration of a separate FIR in relation to the attempt to murder of Ranjit Singh son of Jaswant Singh, who was also hit by a bullet of the Punjab police, which entered through his back and exited through his stomach, regarding which no offence has been as yet been registered by the police.

iii) With the further prayer that his Hon'ble Court may direct the respondent No.4, who is holding enquiry into the matter to submit his report into the matter of indiscriminate and unprovoked police firing upon demonstrators who were peacefully sitting on the road and doing Simran to this Hon'ble Court.

iv) With the further prayer for laying down guidelines to ensure that such incidents do not take place in future and the civil administration and police administration act in accordance with the law.

v) With the further prayer that the police officials who are booked for the crime be ensured to be tried by the criminal court in a time bound manner, so that the witnesses are not threatened and won over.

vi) With the further prayer this Hon'ble Court may grant compensation to the family of deceased Jaspal Singh for loss of life and to Ranjit Singh, who suffered life threatening injuries due to police firing.

vii) with a further prayer that this Hon'ble Court may kindly pass any other appropriate writ, order or direction which deem fit and proper in the facts and circumstances of the case;

- viii) advance notice of the writ petition to the respondents may kindly be dispensed with;
- ix) filing of the certified copies of the Annexures P-1 to P-8 may be dispensed with,
- x) the writ petition be allowed as prayed for.

(P E T I T I O N E R)

T H R O U G H

(NAVKIRAN SINGH)

P/786/1986

(RUBINA N.SINGH)(HARPREET KAUR)(DILPREET SINGH)

P/71/1988 P/769/2008 P/1822/2011

CHANDIGARH: A D V O C A T E S

DATED:23.04.2012 COUNSEL FOR THE PETITIONER